

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: Case No. 1:17-md-2804  
NATIONAL PRESCRIPTION Cleveland, Ohio  
OPIATE LITIGATION Wednesday, July 27, 2022  
2:00 p.m.

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TRANSCRIPT OF TELEPHONE CONFERENCE  
BEFORE THE HONORABLE DAN AARON POLSTER,  
SENIOR UNITED STATES DISTRICT JUDGE,  
AND SPECIAL MASTER DAVID COHEN.

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For the Plaintiff Steven Skikos, Esq.  
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For the Defendant Teva: Eric W. Sitarchuk, Esq.  
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(Appearances Continued to page 2.)

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Proceedings recorded by mechanical stenography; transcript  
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1 APPEARANCES: (Continued.)

2	For the Plaintiff	Lloyd B. Miller, Esq.
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3	Committee:	Tara D. Sutton, Esq.
		Jan Joseph, Esq.
4		Roe Frazier, Esq.
		Elizabeth J. Cabraser, Esq.
5		Eric B. Fastiff, Esq.
		Timothy Q. Purdon, Esq.
6		Mark Crawford, Esq.
		Geoffrey Strommer, Esq.
7		Caroline P. Mayhew, Esq.
		Peter Mougey, Esq.

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1 AFTERNOON SESSION, WEDNESDAY, JULY 27, 2022 2:00 P.M.

2 SPECIAL MASTER: I'll just do a brief  
3 introduction.

4 Our court reporter's name today is Heidi, and because  
5 of course we're not appearing live, if everybody who speaks  
6 would mention who they are, that would be helpful.

7 We're here in the Opioid MDL, that's MDL 2804, and the  
8 reason we're here today is for the Tribal Leadership  
9 Committee, which is being represented by Steve Skikos, to  
10 discuss the settlement that the tribes have reached with  
11 Teva, which is represented today by Eric Sitarchuk; so I  
12 think that Eric and Steve will be the ones primarily who are  
13 presenting. And there are also on the phone quite a number  
14 of other attorneys representing tribes.

15 And so, Judge, the parties are going to explain to you  
16 the settlement agreement that they've reached, and I'll hand  
17 it off to Steve.

18 MR. SKIKOS: Thank you. I just want to make  
19 surer Eric Sitarchuk is on.

20 MR. SITARCHUK: I am.

21 Good afternoon, Your Honor, and everyone else.

22 MR. SKIKOS: Okay. We have an agreed  
23 statement.

24 On behalf of the MDL Tribal Leadership Committee, we  
25 would like to thank Your Honor, Special Master David Cohen,

1 and counsel for Teva, for the opportunity to present the  
2 financial terms of this settlement in principle.

3 A few points of background. In this case, over 170  
4 tribal nations filed suit in the MDL and in this Court  
5 appointed by the Tribal Leadership Committee to serve the  
6 interests of all tribes.

7 In October of 2018, in response to a motion to dismiss  
8 and in light of the experience in Tobacco in which the  
9 tribes were excluded, over 450 tribes and tribal  
10 organizations signed on to the tribal *amicus* briefs. This  
11 filing represents 70 percent of all federally-recognized  
12 tribes and an estimated 85 percent of all tribal citizens.  
13 This was a clear and unified statement in support of the  
14 tribal litigation efforts in the Opioid MDL and in support  
15 of tribal rights to resolve their own cases.

16 The TLC itself is a combination of firms that  
17 historically represent tribes, firms that work on and with  
18 the PEC, and firms responsible for the efforts on liability  
19 discovery, experts, law and motion, and trial.

20 And as you know, Your Honor, the tribes have one of  
21 the bellwether cases in Cherokee Nation and further helped  
22 commence the case against the generic manufacturers when  
23 Blackfeet and Muscogee Creek won a series of rulings in June  
24 of 2019. The tribes are additive and necessary cases to the  
25 two cases of this magnitude, and this led to a settlement in

1 principle.

2 The financial terms with Teva is that Teva will pay  
3 \$119 million over 13 years plus product. The settlement in  
4 principle is conditioned first on an agreement with Allergan  
5 on indemnification and on an agreement with Allergan on  
6 their participation in the global.

7 Now a few points on eligibility and effective date.

8 The aggregate settlement will be presented to all  
9 federally-recognized tribes. Both litigating and  
10 non-litigating tribes will have the right to participate in  
11 the settlement. The tribe does not have to file suit to  
12 participate.

13 There are litigating tribal healthcare organizations  
14 that are also eligible to participate. On the subject of  
15 tribal healthcare, 85 percent of the total settlement funds  
16 in the Teva deal will be spent on drug treatment and related  
17 abatement programs.

18 Dean Kevin Washburn, former Indian Health Service  
19 Director Mary Smith, and expert Kathy Hannan, all tribal  
20 citizens, will share the responsibility for the  
21 implementation of the settlement under the supervision of  
22 court-appointed administrator David Cohen. They will also  
23 lead the outreach and notice to non-litigating tribes.

24 Each participating tribal entity will have the sole,  
25 ultimate, and final say over which abatement uses are best

1 for that tribal entity as that tribal entity continues to  
2 address the opioid crisis. David Cohen and Wayne Phillips  
3 will jointly determine the final intertribal allocation.  
4 Each tribal entity shall have the right to meaningfully  
5 participate in the final allocation process and a right to  
6 be heard prior to the final allocation order specific to  
7 this opioid crisis.

8 Tribal participation will be important. On that note,  
9 the current participation rate, thanks to the TLC, for the  
10 Johnson & Johnson settlement is over 98 percent with zero  
11 affirmative opt-outs, and we have reached effective date  
12 with Johnson & Johnson. It is the goal of the TLC to reach  
13 and to mirror the participation results here.

14 The TLC which is represented on this call believes in  
15 the overall value, purpose, and reliability of the  
16 settlement procedures and is committed to work in  
17 cooperation with you, Your Honor, Special Master Cohen,  
18 Judge Wayne Phillips, the directors, and the company, to  
19 reach participation requirements once we finish the MSA with  
20 Teva.

21 Referring to the terms of the terms sheet -- I don't  
22 have it yet. Anyway, last point. Finally, the aggregate  
23 amount of all opioid-related settlements with the tribes is  
24 almost exactly one billion dollars. And I want to thank  
25 Your Honor for that.

1           In coordination with the PEC, the TLC continues to  
2           pursue the cases against the pharmacies and the remaining  
3           manufacturers, including the generics, and to protect the  
4           tribal claims in the Perdue and Mallinckrodt bankruptcies.

5           That's all I have to say. Eric, it's up to you.

6           MR. SITARCHUK: Thank you, Steven.

7           And Your Honor, I would just like to thank the Court  
8           and the Court's staff, obviously, and Special Master Cohen,  
9           for all the support that you've provided throughout these  
10          negotiations. It's been indispensable. And I'd also like  
11          to thank Steve Skikos for the tireless work that he put into  
12          bringing this agreement in principle across the finish line.

13          THE COURT: All right. Well, I appreciate all  
14          the hard efforts and obviously the results, and I'm  
15          committed to making sure that it gets concluded. If you run  
16          into snags you should contact me or Special Master Cohen,  
17          and I'll help you work through them. It's obviously very  
18          significant to all the tribal nations and to Teva.

19          So again, I appreciate everyone's hard work.

20          MR. SKIKOS: Thank you, Your Honor. And  
21          David, we're sending you all the names of the TLC  
22          participants for the record.

23          SPECIAL MASTER: Thank you all very much.  
24          Have a good afternoon.

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(Telephone conference concluded.)

C E R T I F I C A T E

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

/s/ Heidi Blueskye Geizer      August 14, 2022

Heidi Blueskye Geizer      Date  
Official Court Reporter